

CERTIFIED MAIL

No.

02590

RETURN RECEIPT REQUESTED

NDH 54572
SDR 922-90-04
3165 (922.LE)

May 4 1990

CERTIFIED--RETURN RECEIPT REQUESTED

DECISION

Mr. Douglas R. Harris
Regional Drilling Engineer
Meridian Oil, Inc.
5613 D.T.C. Parkway
Englewood, Colorado 80111

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SDR No. 922-90-04

Overtured

Meridian Oil, Inc. (Meridian) requested a State Director Review (SDR) of a \$1,000 assessment issued to Meridian by our Dickinson District Office (DDO). The assessment was issued to Meridian under the authority of 43 CFR 3163.1(b)(2), due to failure on Meridian's part to comply with 43 CFR 3162.3-1c. Meridian was notified of the violation and assessment by a Notice of Incident of Noncompliance (INC), number IMK 90047, dated March 30, 1990.

The INC notified Meridian that an inspection of drilling operations on federal lease NDH 54572, well No. 32-25H (Federal), located SWANEX Section 25, T. 14S N., R. 10W W., revealed a violation of 43 CFR 3162.3-1c for failure to identify and obtain approval in the Application for Permit to Drill (APD) for the full extent of the horizontal hole configuration to be drilled. Specifically, the inspector found the horizontal portion of the well was being drilled at a 110° azimuth rather than a 45° azimuth and Meridian failed to obtain approval for the 110° azimuth. The DDO also contends that the 110° azimuth is a separate and distinct wellbore from the 45° azimuth. The INC specified that a change of plan was to be submitted within 48 hours. The INC also notified Meridian of an assessment of \$500 per day times 2 days (the number of days the violation existed), totaling \$1,000.

Attached to Meridian's April 30, 1990, request for SDR is their letter to the Dickinson District Manager dated April 11, 1990, that provides various arguments which Meridian feels should exonerate Meridian from the penalty assessment action taken by the DDO.

1. Meridian agrees that they were in violation with respect to lack of notification and receipt of approval to deviate from the approved drilling plan.

2. Meridian's drilling operations are continually revised as well conditions dictate. The decision to deviate from the drilling plan was based upon new information obtained during the drilling operations, and could not have been foreseen or incorporated into the APD.

3. The violation was due to an honest oversight and should in no way be considered a purposeful or flagrant violation. In Meridian's defense, the North Dakota Industrial Commission (NDIC) was notified of the proposed drilling plan on March 21, 1990.

4. In addition, Meridian conducted drilling operations in a manner consistent with state regulations regarding spacing requirements, and conducted wellbore surveys throughout drilling of the 110° azimuth.

5. Meridian's position on the 110° azimuth as being a separate and distinct wellbore from the 45° azimuth is that it is subject to interpretation.

Meridian contends that the NDIC was notified of the proposed drilling plan and the operation was conducted in a manner consistent with state regulations. We must point out that since the well was drilled on a federal lease, Meridian must comply with the federal regulations. Any deviation of drilling operations from the approved drilling permit must be approved by the authorized officer of the BLM. We have no doubt that Meridian was in violation. However, we need to determine if the INC and the \$1,000 assessment imposed on Meridian by the DDO was reasonable and proper.

The APD for the aforementioned well was approved on January 29, 1990, and the well was spudded on March 4, 1990. Meridian started drilling the 110° azimuth on March 26, 1990. Verbal approval for drilling the 110° azimuth was granted on March 28, 1990, and written approval was granted on April 4, 1990.

The regulation cited by the Dickinson District Office for the INC was 43 CFR 3162.3-1(c) which states, "The operator shall submit to the authorized officer, for approval, an Application for Permit to Drill for each well. No drilling operations, nor surface disturbance preliminary thereto, may be commenced prior to the authorized officer's approval of the permit." However, Meridian did have an approved APD, therefore, the violation quoted is not correct. The appropriate regulation in this case is 43 CFR 3162.3-1(e) which states, in part, "A drilling plan may be modified from time to time as circumstances may warrant, with the approval of the authorized officer."

Also, the DDO's basis for an assessment of \$500 (totaling \$1,000) comes from 43 CFR 3163.1(b)(2) which states, "...for drilling without approval or for causing surface disturbance on federal or Indian surface preliminary to drilling without approval, \$500 per day for each day that the violation existed, including days the violation existed prior to discovery, not to exceed \$5,000." The violation was discovered by the DDO inspector on March 28, 1990. If the drilling was conducted without an approved permit, the \$1,000 assessment would be appropriate. However, the operator did, in fact, have an approved APD and the drilling of the 110° azimuth was a modification to the drilling plan which was subsequently approved by the DDO. Therefore, the operator should not be subject to an immediate assessment.

In light of the above, we conclude that Meridian Oil, Inc., was indeed in violation of 43 CFR 3162.3-1(e) for failure to obtain approval for change of plans; however, this was not the regulations cited, and Meridian has subsequently submitted and received approval for the change of plans. We, therefore, overturn the DDO's issuance of INC IMK 90047 and their assessment action.

Sincerely,

/s/ Thomas P. Lonnie

Thomas P. Lonnie
Deputy State Director
Division of Mineral Resources

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cc:
DM, Dickinson

bc:
AK SO
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